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November 13, 2017

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Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W., Room TW-B204  
Washington, D.C. 20554

ACCEPTED/FILED

NOV 13 2017

Federal Communications Commission  
Office of the Secretary

Re: ACTIS, NV – Comments in FCC Dkts. WC 17-192 and CC 95-155

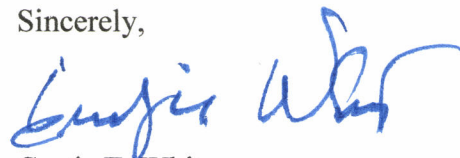
Dear Ms. Dortch:

On behalf of ACTIS, NV, and in accordance with Section 1.45 of the Commission's rules, 47 C.F.R. § 1.45, attached are an original and four copies of comments to be filed in the above-captioned NPRM proceeding, published in the Federal Register October 13, 2017.

Please date stamp the enclosed File Copy and return to the courier. Kindly contact the undersigned Washington counsel should questions arise regarding this transmittal.

DOCKET FILE COPY ORIGINAL

Sincerely,



Curtis T. White

cc: Ms. Judith De Weever  
ACTIS, NV

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of )  
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Toll Free Assignment Modernization )  
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Toll Free Service Access Codes )  
\_\_\_\_\_ )

WC Docket No. 17-192

CC Docket No. 95-155

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Federal Communications Commission  
Office of the Secretary

**COMMENTS OF ADVANCED COMMUNICATIONS  
AND TECHNOLOGY INFRASTRUCTURE SERVICES**

Advanced Communications and Technology Infrastructure Services, NA

("ACTIS"), through counsel and pursuant to Section 1.415 of the Commission's rules, 47 C.F.R. §1.415, and in furtherance of the Commission's Notice of Proposed Rulemaking published in the Federal Register October 13, 2017, hereby files comments in the above-captioned proceeding.

**1. ACTIS has an Interest in this Proceeding**

Effective September 30, 2011, St. Maarten became a participant in the North American Numbering Plan (NANP). This participatory consortium shares numbering resources of NANP, and includes numerous countries in the Caribbean Region,<sup>1</sup> Canada, the U.S., and all U.S. territories. Countries retain plenary authority of their telecommunications sector, and establish interface to ensure conformance with numbering protocols and coordinate administration as they may deem appropriate.

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<sup>1</sup> Participating Caribbean countries include Bermuda, Anguilla, Antigua & Barbuda, the Bahamas, Barbados, British Virgin Islands, Cayman Islands, Dominica, the Dominican Republic, Grenada, Jamaica, Montserrat, Sint Maarten, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago, and Turks & Caicos

It is in furtherance of its plenary authority that the Government of St. Maarten appointed ACTIS as its numbering resource manager for NANP database purposes, and the company subsequently qualified as a RespOrg to handle toll free and premium number assignments, the latter in coordination with NANP.

## 2. Proposed Procedures to Assign Certain Toll Free Numbers in the 833 Code

As set forth in the NPRM, the Commission proposes to use an auction to assign certain vanity<sup>2</sup> and repeater<sup>3</sup> numbers as part of its procedures for opening the 833 code.<sup>4</sup> It explains that some 17,000 mutually exclusive<sup>5</sup> vanity or repeater numbers have been identified and placed in an unavailable status pending the outcome of this proceeding. All other numbers that might be available in the 833 code will be made available and assigned under the existing first-come, first-served rule.

## 3. New Procedures Must Ensure Opportunities for Equitable Assignments

The NPRM summarizes and seeks comment on auction approaches currently under consideration, specifically the single round, sealed-bid Vickrey, the Pay-Your-Bid Auction, Open Auction, as well as any other possible designs. The Commission believes that use of an auction to assign the 17,000 mutually exclusive numbers is the most equitable and efficient manner to address excess demand. It also states its belief that certain toll free numbers are currently underpriced, and buttresses that belief on the

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<sup>2</sup> Vanity numbers are defined as numbers that spell a name, memorable words or otherwise offers some value to the number assignee or holder.

<sup>3</sup> Repeater numbers are sequenced numbers that are easy to remembers, such as xxx-333-3333.

<sup>4</sup> See NPRM, 35 FCC Rcd at 3159, September 28, 2017 [hereinafter 833 Code Opening Order].

<sup>5</sup> Numbers that two or more requests for assignment by RespOrgs that submitted requests to the Wireline Competition Bureau

fact it was previously required to implement rules to prevent the practices of hoarding<sup>6</sup> or warehousing<sup>7</sup> of toll free numbers. In addition to the use of auctions (for the mutually exclusive numbers) and the first-come first-served approach, the Commission also seeks comments on possible use of other assignment approaches for desirable 833 numbers.

It cannot be gainsaid that the auction of mutually exclusive numbers will not result in the realization of higher use value, as well as higher amounts of auction revenue. Use value and a possible revenue increase, however, are not necessarily determinative that a valuable resource will be equitably distributed. In addition, ACTIS does not accept the premise that an auction is the most effective method of promoting the equitable distribution of scarce resources.<sup>8</sup> Moreover, the ability to pay is often a major, if not the controlling factor in successful bids. Indeed, since given the authority to employ auctions via auctions, the Commission has often stated the view, as in this instance, that auctions will award licenses to those who value them most. Without safeguards, this often translates into a successful bid being determined by the deepest pockets. To address this issue, and also satisfy its statutory mandate, the Commission has previously included in its auctions provisions that created "bidding credits" for certain qualifying bidders.

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<sup>6</sup> Hoarding is defined as having assigned more toll free numbers than a subscriber plans to use.

<sup>7</sup> Warehousing is defined as the practice of a RespOrg reserving a number from the database when there is no requesting subscriber.

<sup>8</sup> Compare this with airline slots - a valuable resource - which are not routinely auctioned due to a number of considerations, including the premise that auctions could depress competition.

These credits, in turn, are designed to ensure that small businesses, people of color, women and rural telcos, among others, were afforded opportunities to participate in the provision of spectrum-based services.<sup>9</sup>

#### 4. The Commission Should Consider Structuring Bidding Credits

A touchstone principle of Commission licensing is to ensure the most efficient use of spectrum, and to do so in an equitable manner. As earlier noted, there are 20 countries in the Caribbean Region that participate in the North American Numbering Plan. All countries are eligible to use all numbering resources available under NANP, including toll free numbers. While varying in size, most Caribbean states would be considered small markets. In the case of St. Maarten, the resident population – pre Hurricanes Irma and Maria – was 42,000 citizens.<sup>10</sup> Such a population would clearly pull it within the rural area category, an area that has received bidding credits in prior auctions in an effort to ensure that small business and rural could compete on an equal footing. From a global perspective, all Caribbean States participating in NANP fall into the category of Small Island States (SIS).<sup>11</sup> The U.N. has recognized that SIS have unique vulnerabilities that place them at an economic disadvantage, prevent economies of scale, and make it difficult to finance development from competitive domestic and international sources.<sup>12</sup>

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<sup>9</sup> *Updating Part 1 Competitive Bidding Rules, Report and Order, Order on Reconsideration of the First Report and Order, Third Order on Reconsideration of the Second Report and Order, Third Report and Order*, 30 FCC Rcd 7493 (2015).

<sup>10</sup> Some St. Maarten residents have relocated since the recent storms.

<sup>11</sup> See U.N. Listing of Small Island States - <https://sustainabledevelopment.un.org/topics/sids/list>.

<sup>12</sup> E.g., Annex to the Letter UN, S/2015/543, UN Security Council, July 15, 2015 – [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2015/543](http://www.un.org/ga/search/view_doc.asp?symbol=S/2015/543).

Apart from considerations of population and other factors that make competition difficult, there is the likelihood that the Commission's consideration of promoting a secondary market – and simultaneously eliminating the prohibition of brokering – will conceivably drive up price since the auction could likely attract interested parties from the investment community.

Given the foregoing, ACTIS would urge the Commission to structure bidding credits as part of this proposed auction to ensure that smaller RespOrgs located in the Caribbean Region have an opportunity to be compete and be a successful part of a scheduled auction.

#### 5. Additional Observations

ACTIS offers categorical comment on or additional observations on the following:

(a) Beyond the proposed auction of mutually exclusive numbers, the Commission should neither consider nor adopt auctions across the board for this or future toll free code openings;

(b) SOMOS should remain as the TFNA since in the view of ACTIS it has been both efficient and impartial in the administration of the toll free SMS;

(c) Certain desirable toll free numbers that promote health and safety should be set aside for use by government, without cost,<sup>13</sup> and

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<sup>13</sup> This is consistent with current policies of the Commission regarding fee requirements for governmental licensees.

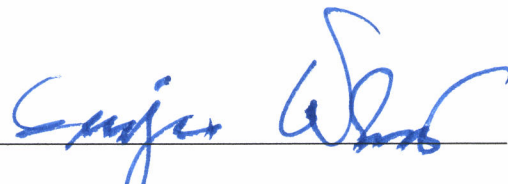
(d) The Commission should develop procedures to reclaim numbers where there is fraud or abuse, with the latter category including bids made for the purpose of subjecting a brand holder (i.e., owner of a brand or intellectual property) to some form of number ransom.<sup>14</sup>

Conclusion

ACTIS is not convinced that an auction is the most equitable means of allocating assignments of mutually exclusive numbers in the 833 code. Notwithstanding, and to the extent the Commission adopts such an approach, we urge the Commission to establish procedures and mechanisms that ensure small RespOrgs based in the Caribbean are placed on an equal footing and afforded an opportunity to compete effectively as part of the auction process.

Respectfully submitted,

ACTIS, NV

By:   
Curtis V. White

November 13, 2017

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<sup>14</sup> E.g., Comments of network Telephone Services, Inc., October 11, 2017 Inc.